(27)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO.2152 OF 2004

PETITIONER

Reena Kachhawaha
Aged about 27 years
W/o Shri Vishnu Kachhawaha
D/o Omprakash Kachhawaha
At present Ishwaripura Ward,
Katni, District Katni (M.P.)

Versus

RESPONDENT

1. Vishnu @ Deepak Kachhawaha
   S/o Shri Kashi Prashad
   Kachhawaha, aged about 30 years,
   R/o Baikunthpur,
   Raigarh (C.G.)
2. Ganesh Prasad
   S/o Shri Kashi Prasad Kachhawaha
   Aged about 34 years,
   R/o Baikunthpur, Raigarh (C.G.)
3. Lok Adalat
   Sthayee Evam Nirantar Lok Adalat,
   Kramank 1 District Raigarh (C.G.)

Present: Mr. Prateek Sharma, learned counsel for the petitioner.
Mr. Prashant Mishra, learedn Sr. Advocate with Shri V.R. Tiwari, learned counsel for respondent No. 1 and 2.

ORAL ORDER
(Passed on 27th February, 2006)

The petitioner is the wife of the 1st respondent and they married on 28.06.2003 at Katni in accordance with the Hindu rites. In pursuance of an application purported to have been made jointly by the petitioner and the 1st respondent under Section 12 of Hindu Marriage Act 1955, the permanent Lok Adalat, by its award dated 07.12.2003 in case no. 36-A/2003, declared the marriage solemnized between the parties on 28.06.2003 as void on the ground that the petitioner has been suffering from serious disease since 1990 and she is not capable of begetting children and also on the ground that the 1st respondent's marriage with the petitioner was done by playing fraud. The validity of that award

128

is assailed in this writ petition filed under Articles 226 and 227 of the Constitution of India on various grounds.

(2) It is contended that the above award came to be passed by the permanent Lok Adalat at the behest of the first respondent and his brother, second respondent herein by playing fraud on the petitioner. It is alleged that at no point of time, the petitioner gave consent for the award now passed by the permanent Lok Adalat. I do not think that it is a fit case where this Court under Article 226 of the Constitution can go into the allegations leveled by the petitioner against her husband and record finding on the same. Be that as it may, since it is the case of the petitioner that the impugned award was procured by the first respondent by playing fraud, the petitioner can seek review of the award before the Lok Adalat itself, because, Lok Adalat will be in a better opposition to appreciate the facts and circumstances of the case for passing the award.

(3) In that view of the matter, reserving liberty to the petitioner to seek review of the award before the Lok Adalat, I dismiss this writ petition. All the contentions raised by the parties in their respective pleadings filed in this writ petition are left open to be pressed into service before the Lok Adalat. If the petitioner files review petition before the permanent Lok Adalat within a period of one month from today, the Lok Adalat is directed to dispose of the same on merits as expeditiously as possible, at any rate, within a period of six months from the date of presentation of the review petition. This Court having entertained this writ petition on 29/07/2004 had stayed execution and implementation of the impugned decree (award). In that view of the matter, I direct that the above stay order shall be in operation for a further period of six weeks from today.

Sd/-
Chief Justice

Brajesh